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MONTANA DEPARTMENT OF HIGHWAYS

1984 TITLE VI PLAN REVISION

SUBMITTED: JULY 25, 1984

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REVISED 6-15-84

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TITLE VI AND NONDISCRIMINATION PROGRAM
POLICY STATEMENT

Title VI, in its application, is specific to discrimination based on race, color, national origin or sex. In addition, there are laws which prohibit discrimination on a basis other than race, color, national origin, or sex. For this reason the program is referred to as the Title VI and Non-discrimination Program.

The policy of the Montana Department of Highways is to ensure that no person or group of persons shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any federal-aid program or activity administered by the Montana Department of Highways.

As the Director, I delegate the responsibility to assure the implementation of the Department Title VI and Nondiscrimination Program to all personnel directly involved with Title VI and related statutes compliance.

June 15, 1983
Revised Date

Gary J. Wicks, Director

A. PURPOSE

The purpose of this document is to define the organizational procedures the Montana Department of Highways will utilize to comply with the Federal regulations issued by the U.S. Department of Transportation concerning Title VI.

SCOPE

The Montana Department of Highways along with all sub-recipients of Federal-aid programs will follow the procedures outlined in this Title VI Plan to ensure the compliance of Title VI requirements.

AUTHORITIES

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d-d4)
b. Title 49, Code of Federal Regulations, Part 21
c. The Standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2
d. Executive Order 11764
e. Title 28 CFR, Section 50.3
f. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621-4638, 4651-4655)
   (1) Title 49, C.F.R., Part 25
   (2) Federal Management Circular 74-8, Public Law 91-646
g. Title VIII (Fair Housing) of the Civil Rights Act of 1968, Amended 1974 (42 U.S.C. 3601-3619)
h. Section 136(b) of the Federal-Aid Highway Act of 1970 (23 U.S.C. 109 (D)(h).
i. Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 324)
j. Subsequent Federal-Aid Highway Acts and Related Statutes.

B. DEFINITIONS

Affirmative Action - a good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

Beneficiary - any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocatees, impacted citizens, communities, etc.

Citizen Participation - an open process where the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Complaint - for the purposes of this document, a verbal or written allegation of discrimination or disparate treatment by any persons who are covered by Title VI or other nondiscrimination laws applicable to the Federal-aid highway program.

Compliance - a satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

Deficiency Status - the interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in non-compliance by the Secretary of Transportation.

Discrimination - an act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex or national origin, has been excluded from participation in, denied the benefits of, or has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under Title 23 U.S.C.

Noncompliance - a recipient's failure to meet prescribed requirements and showing an apparent lack of good faith effort in implementing all of the Title VI requirements.

Program - includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient - any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof.

C. ORGANIZATION

The Director of Highways has authorized the Manager, Civil Rights Unit to represent him in the day-to-day operations of all matters relating to Civil Rights. This includes the Title VI and Title VII Programs, Disadvantaged Business Enterprises Program, EEO Contract Compliance, and Labor Compliance programs.

The Director of Highways has the overall responsibility for assuring compliance with the Title VI assurances and total Civil Rights Program. In order to provide for effective and overall coordination of the Title VI Program, the Director of Highways has appointed the Manager, Civil Rights Unit and her EEO staff the responsibility to monitor and assist all Districts, Divisions, Bureaus, Sections, and Units in complying with their Title VI assurances.

D. FEDERAL-AID HIGHWAY TITLE VI PROGRAM

1. Title VI, 1964 Civil Rights Act/Programs of Nondiscrimination Background.

Pursuant to Title VI of the 1964 Civil Rights Act, representatives of each State Highway Agency, in 1964 through 1971, signed assurances obligating them to develop plans for programs to ensure nondiscrimination on the basis of race, color or national origin as a basis for continued receipt of Federal funds. A major problem encountered regarding program development is in taking the conceptual form of Title VI and translating the concept of nondiscrimination into a comprehensive integral component of the Federal-aid highway program.

Title VI and Nondiscrimination program application to the Federal-aid highway program include the following areas: Program Development, Preconstruction, Right of Way, Construction, Education and Training, Administration, and Materials (including Research).

Title VI, in its application, is specific to discrimination based on race, color and national origin. This point must be made implicitly clear to preclude a misrepresentation or a misapplication of statutory reference. There are other laws, however, which prohibit discrimination on a basis other than race, color or national origin, which are discussed in the next section. For this reason the program is referred to as Title VI and nondiscrimination programs.

Coverage of the program is the most extensive of any of the Civil Rights programs. It covers virtually every citizen of the U.S. because every citizen either participates in or benefits from Federal-aid appropriation.

Effective program implementation will occur only when program managers, administrators and bureau chiefs become aware of how their programs may discriminate against others. Persons directly responsible for the nondiscrimination programs must also be knowledgeable of the entire Federal-aid highway program process implemented by the State Highway Agency.

2. Related Statutes

a. AGE - Nondiscrimination on the basis of Age in programs or activities receiving Federal Financial Assistance.
   - Age Discrimination Act of 1975, 42 U.S.C. G101 et seq.
   - Rules on Age discrimination in Federally Funded Programs-45 CFR 90.

b. HANDICAP - Nondiscrimination on the basis of handicap under Federal Grants and Programs.
   - Section 504 - Vocational Rehabilitation Act of 1973.
   - Rules on U. S. Department of Transportation Handicap Discrimination in DOT Federal-aid programs - 49 CFR 27.

c. SEX - Nondiscrimination in Federal Highway Administration assisted programs or activities on the basis of sex.
- 23 U.S.C. 324 - Prohibition of discrimination on the basis of sex.

d. The prohibition of discrimination in Federally assisted programs or activities on the basis of age, handicap and sex has its basis in statutory law but is distinct from Title VI. However, program implementation and administration are the same as Title VI.

There are many other protected classes (sub-elements/sub-population) covered by the Federal-aid highway program of nondiscrimination but are not under statutory review. For example, 23 CFR 771.105(F) which requires significant social impact be discussed in every environmental impact statement, lists members of a sub-population which may be adversely and disproportionately affected by a proposed project. This regulation, in part states, "The following are examples of groups that may have special problems and require special consideration with respect to access to jobs, schools, churches, parks, hospitals, shopping and community services: elderly, school age children, those dependent on public transportation, handicapped, under the Vocational Rehabilitation Act; and racial or ethnic minority group members covered by Title VI of the 1964 Civil Rights Act."

The Secretary of Transportation has the authority to administratively remedy proven discrimination, which may include withholding Federal assistance from a recipient.

3. Title VI/Nondiscrimination - Application to Federal-aid Highway Program.

a. Program Reviews:
The Compliance Specialist is responsible for conducting Title VI Compliance reviews and evaluations. These reviews will be scheduled annually to assure the Title VI Program is being effectively implemented. Title VI reviews will occur in the following areas: Construction, Preconstruction, Program Development, Right of Way, Education and Training, Materials (including Research), and an overall review of Administration. Advance scheduling of reviews will occur. The Compliance Specialist, Civil Rights Unit, will conduct annual reviews for compliance. After all reviews are completed, a summary will be written by the Compliance Specialist. If problem areas are pointed out in the course of the reviews, they will be brought to the Director's attention by the Manager, Civil Rights Unit.

The Manager in each program area has the responsibility for conducting external Title VI reviews with the contractors, subcontractors, consultants, fee appraisers, property managers, etc. The Compliance Specialist will monitor these actions by spot checking documentation, and occasionally accompanying Department personnel conducting external Title VI Reviews.

The Manager in each program area has the responsibility, through the coordination of the Manager of the Civil Rights Unit and her staff, to properly administer the Title VI program within their Division or Bureau. Their duties entail, but are not limited to:

1. Internal review and evaluation of their Title VI Program.

2. Establishing a female/minority identification system.

3. Establishing a program to encourage the involvement of female/minority contractors, consultants, etc.

4. Inserting applicable notification in all proposals for negotiated agreements.

5. Providing technical assistance when requested by internal personnel and contractors.

6. Preparing reports as requested.

7. Presenting Title VI Policies and Procedures during Bureau or Division staff meetings.

Each Program area is required to keep files, and document all actions taken in regard to contacts made, records of achievement, and Title VI Program activities.

E. YEARLY GOALS AND OBJECTIVES

Goal:

The goal of the Title VI Program is to monitor the activities of the various Divisions and Bureaus as they perform their Title VI functions. The goal can be achieved through the following ways:

1. To provide training in the area of Title VI.

2. Actively monitor and assist Divisions and Bureaus with their implementation of Title VI activities.

3. Assist Divisions and Bureaus with problems as they occur on a day-to-day basis.

4. Compile reports regarding the monitoring functions utilized throughout the Department. Problems will be taken care of as they arise.

5. Conduct an indepth review of the Divisions and Bureaus annually.

   The procedure for submitting questions to the Divisions and Bureaus prior to the review will remain the same. Written reports will be submitted as in the past.

F. END OF YEAR REPORT of ACCOMPLISHMENTS

Note: Compiled and forwarded to FHWA Division office during September annually.

G. COMPLAINTS

The MDOH will investigate all Title VI-VIII complaints received in accordance with the MDOH Internal Title VII procedure, identified in MDOH MOM Policy #3-0605.2. A form has been developed and will be used to investigate a Title VI-VIII complaint when one is received by the SHA.

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STATE OF MONTANA
Montana Department of Highways
Civil Rights Unit
2701 Prospect Avenue
Helena, MT 59620

Title VI-VIII Complaint Investigation Form (23 C.F.R. Sec. 200.9(b)(3))

Date Complaint Filed_____ Date(s) Complaint Investigated_____

A. Complainant:

1. Race -

__ a. White

__ b. Black (Not of Hispanic Origin)

__ c. Hispanic

__ d. Asian or Pacific Islander

__ e. American Indian or Alaskan Native

2. Sex -

__ a. Male

__ b. Female

3. National Origin (Specify) -

B. Recipient (of Federal Funding) -

C. Nature of the Complaint (Give complete details, including dates, times, etc.) -

D. Other Pertinent Information Pertaining to the Complaint -

E. Disposition -

1. Cause -

2. No-Cause -

Reasons -

F. Date of Disposition -

G. Date Report of Investigation Forwarded to Division, FHWA (within 60 days of receipt of complaint by State) _____
(Date)

H. Signature of Civil Rights Unit Person conducting the investigation

_____ _____ _____
Signature of Investigator Title of Investigator Date

_____ _____
Signature, Manager, Civil Rights Unit Date

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
PROGRAM DEVELOPMENT DIVISION TITLE VI PLAN

A. Compliance Procedure - Planning:

1. Consultant Selection - in an attempt to award a fair share of planning consultant contracts to minority and female consultant firms, the Division, in cooperation with the Consultant Selection Committee and in accordance with the adopted consultant selection procedures, will utilize the following for assuring Title VI compliance:

   a. Maintain a list of qualified planning consultants.

   b. Assure, through the consultant selection procedures mentioned above, the Requests for a Proposal (RFP) are publicized and solicited from qualified minority/female sources.

   c. Newspaper notices will contain the following language: "This contract is subject to all appropriate federal laws including Title VI of the Civil Rights Act of 1964."

   d. In the development of the scope of services or RFP, where economically feasible, making allowances for dividing the work into smaller tasks permitting qualified minority or female firm participation. Such divisions will be contingent upon the size and scope of the work, as well as the qualifications of the firms being solicited.

   e. Encourage the prime contractor, through their own Title VI assurances, to take the same or similar steps outlined in a, b and c above.

   f. Conduct Title VI reviews of cities, counties, consultant contractors, etc., as per 23 CFR 200.9(b)(7). (See Appendix A)

2. Contract Development, Pre-award Requirements:

   a. The selected consultant is advised of the requirement for submitting an affirmative action plan prior to execution of the contract.

   b. The firm's affirmative action plan is reviewed. The review includes a study of procedures for soliciting and consideration of subcontractors. The plan is accepted when procedures meet appropriate standards.

   c. A list of current minority/female employees and their qualifications must be submitted.

3. Contract Monitoring:

Title VI Reviews

a. The consultant's work will be reviewed on a monthly basis. At that time, any new information concerning Title VI activities will be exchanged. Such monitoring will normally be conducted by the Planner assigned to the project. The Division's Title VI Representative will also monitor such activities in company with the Planner on a select basis depending on the type of project.

b. Depending upon the type and length of time for completing a project, the consultant will be reviewed at least once for Title VI compliance or on an annual basis for those projects of a longer duration.

4. Urban Transportation Planning:

Title VI Reviews
The compliance reviews described in the following sections will utilize both the Transportation Planner and the Title VI Representative. In the areas with formal planning activities it will be the responsibility of the assigned Transportation Planner to be fully aware of the Title VI activities in their particular area on a continuing basis. The annual review will be a more formal affair conducted with the assistance of the Title VI Representative. A prescribed review format will be followed with allowances for additional review as deemed necessary.

a. Small Urban Areas

Without a Formal Planning Process.
In those areas over 5000 population who are recipients of Federal-aid urban funds, compliance reviews will be conducted on an as needed basis. Urban areas beginning a transportation study or making major changes in their project priorities would be the criteria used to establish the need for review. Local elected officials and planning officials will be asked to provide an assurance that the development of their list of project priorities have taken into consideration Title VI requirements. FHPM 7-7-5 will provide further procedures for implementing Title VI considerations.

With a Formal Planning Process.
Title VI activities by the local agencies will be under constant surveillance during the development of a transportation plan. In addition, an annual review will be conducted to determine the effectiveness of the activities in at least two urban areas. As a minimum, the activities necessary to meet Title VI requirements will be included in the agreement and the scope of the Transportation Planning Project. These areas will be reviewed on a rotational basis.

b. Urbanized Areas

Title VI activities by the Program Development Division in these areas will be basically an information exchange and monitoring activity. The local transportation planning agency must, by agreement, include in their prospectus their plan for Title VI involvement on a continuing basis. It then becomes the responsibility of the Division to monitor the compliance of these activities as well as provide updated information as it becomes available. It is also necessary the surveillance procedures allow for changing conditions in the basic socio-economic composition of the area. A prescribed review format will be followed with allowances for additional areas of review as necessary. Each urbanized area will be reviewed comprehensively once every four years.

5. Rural Transportation Planning

The Project Analysis Bureau of the Program Development Division is charged with the administration of the Department's project selection for rural projects. Title VI concerns in the area are directed at the identification of all minority, elderly, or handicapped impacts in addition to identifying all suspected social, economic and environmental consideration. The identification of Title VI concerns in this pre-programming phase becomes a part of the project file and is dealt with and resolved in the project development activities. Project development activities are uniformly handled in the location and design procedures found in sections C and D of the Preconstruction Bureau's portion of the plan.

MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
PRECONSTRUCTION BUREAU

A. Consultant Contracts

1. The Department has a standard procedure for the selection of consultants which covers Title VI Assurances. In all consultant contracts we include Title VI assurances and search for and identify in-state minority consultants to be considered for selection as appropriate. The Department requires all consultant agreements contain provisions and stipulations calling for compliance with Title VI. The Department has and will continue to advise the consultants they have a duty to see that all qualified applicants are employed and treated equally during employment without regard to race, color, religion, sex, national origin or age. If one of our consultants engages the services of a subcontractor, the subcontractor is obligated to the same Title VI compliance provisions. New contracts provide for the consultant to monitor and report on compliance of Title VI for any subcontractors. We make an annual review to determine the consultant's compliance with Title VI as the agreement progresses. Documentation relative to the consultant's compliance with Title VI provisions are kept on file in the Preconstruction Bureau. Personal visits and inquiries are made by department employees to the consultants throughout the year to monitor Title VI compliance.

2. The Department has a written procedure entitled "Consultant Engineering Services" for the selection of consultants. These procedures were reviewed and updated January 5, 1983.

3. The procedures do not discourage involvement of minority and/or female consultant firms.

4. Information on how a consultant firm is selected is referenced to "Consultant Engineering Services" procedure.

5. The Preconstruction Bureau maintains a current list of acceptable consultant firms. Each consultant firm's field of expertise is known and also whether they are minority and/or female firms. Every two years the Bureau will attempt to locate minority or female consultant firms through media advertising, professional organizations, local search and close liaison with the Disadvantaged Business Enterprise Manager. This list was updated February 1984.

6. Consultant firms may be added to the Department's list of acceptable firms by submitting necessary information relative to experience and qualifications (Standard Form 254, General Services Administration).

7. Information as to who is responsible for selecting a firm or firms for particular contracts is referenced to "Consultant Engineering Services" procedure.

8. Consultant firms selection of subcontractors on a nondiscriminatory basis is referenced to "Consultant Engineering Services" procedure.

9. Newspaper notices will contain the following language, "This contract is subject to all appropriate Federal laws including Title VI of the Civil Rights Act of 1964".

10. The Preconstruction Bureau will consider breaking down portions of larger consultant contracts for Disadvantaged Business Enterprises.

11. Conduct Title VI reviews of cities, counties, consultant contractors, etc., as per 23 CFR 200.9(b)(7).

B. Public Hearings

The Department ensures all persons, including minorities, the elderly and the handicapped are entitled to participate in public meetings and hearings. This is done by advertising the meetings in papers circulated in the area where the hearing is to be held. Also, we issue news releases to local radio and television stations for coverage in the affected areas.

In instances where Indian land is involved, notice of the hearing is sent to the Tribal Council and Council newspapers that we are aware of. A list of minority newspapers is kept so they can be notified in appropriate instances. When there is a project affecting Indians or Indian lands, we have a separate meeting either before or after the regular public hearing. This is a program in which we encourage minority groups to meet with Department personnel to express their feelings about a project affecting them.

The Department feels we are achieving a certain degree of success through this program, and will continue to conduct them. Following public hearings, all incoming comments are analyzed and consideration given to all problems.

1. Formal Hearing Results

   a. Public hearings are held in locations reasonably convenient for minority participation. If distances are a factor the hearings may be held in more than one location.

   b. Hearings are advertised in local newspapers, and on radio and television stations for coverage in the affected areas. Information is also sent by direct mail to individuals affected.

   c. Minorities are invited to attend public hearings through direct mailings to individuals, their organizations and councils. (Also by advertisement in known minority newspapers).

   d. Questions and objections are analyzed and consideration given to all problems on an equal basis, regardless of race, color, sex, national origin or age.

e. Information regarding hardship acquisition is available at all public hearings.

f. Information regarding fair housing requirements are discussed at all public hearings.

g. If communications or language barriers are evident, every effort will be made to overcome the language barrier.

h. Sufficient time is allotted to reasonably answer questions by persons attending the hearings.

C. Location

The Department reviews alternate corridor locations to ascertain the affect of the location on minority, handicapped and elderly groups and low-income neighborhoods. The normal procedures begin with land use studies, narrative right-of-way reports, public hearing reactions, environmental statements and associated feedback. In the planning of such corridors the neighborhoods affected are given opportunities to learn and comment on possible locations. Minority neighborhoods are given consideration during corridor studies by land use studies, right-of-way investigations and narrative reports about social and economic effects. The information contained in the "Narrative Right-of-Way Report" and the "Land Use Study" (see items 1, 2, and 3 below) is summarized and included in the environmental impact statement (EIS) and occasionally, where warranted, in the environmental assessment (EA). Also, meetings are arranged with civic groups, local officials and individuals who are concerned or involved.

We have included multiple use procedures in our location and design study reports consistent with FHPM 7-7-5. We also assume a lead role in initiating and unifying cooperation by other agencies or governmental bodies in the development of facilities beneficial to specific neighborhoods, cities and towns. The design study report reviews the location and environmental data, establishes the detail alignment criteria, and develops the final design. When the design status of the projects are in the final stages, the opportunity for a design public hearing is provided. This assures the Department of Highways and the public a continuing dialogue is established. This will assure decisions reached are in the best overall public interest. Expressions of concern for potential Economic, Social and Environmental Impacts are fully evaluated prior to the decision. It is Department of Highway's policy that significant developments or changes in plans will be made available to the public as they occur. Further, it is the policy that personnel of the Department are available to interested groups and individuals to discuss all phases of the projects of which they have concern. These policies are designed to assure the established dialogue is a continuing one.

1. The approximate number of persons by race and families affected by each alternate location is referenced to the "Narrative Right-of-Way Report".

2. The social and economical character of the area through which alternates pass includes: (1) levels of income, (2) whether the area is commercial or residential, (3) and the approximate number of minority owners of business and residences in the area. These are referenced to the "Narrative Right of Way" and "Land Use Study" reports.

3. The racial character of the people employed in the area affected by each alternate is referenced to the "Narrative Right of Way" and "Land Use Study" report.

4. Racial and ethnic data is used to identify possible problem areas and adverse impacts, such as: (1) relocation difficulties, (2) possible changes in minority income capabilities, (3) mobility, or (4) community cohesion. Assistance for the above mentioned problems is available through the Right-of-Way Bureau's relocation assistance procedure.

5. Input from minority communities for planning goals and needs are given equal consideration regardless of race, color, national origin, sex, or age.

D. Design

1. Grade lines, safety considerations, cross-street treatment, pedestrian overpasses, and other design features are established for all alternatives to the same degree in minority areas as in non-minority areas.

2. Access to and from the various alternatives are considered without discrimination.

3. Effects of traffic volumes for the various alternatives is given equal consideration in minority areas as in non-minority areas.

4. Aesthetics, noise, and air quality on each alternate is considered without discrimination.

5. Information in the form of: (1) plans, (2) locations and design study reports, (3)environmental impact statements, (4)and display boards are available at public hearings and to individuals requesting this information on a nondiscriminatory basis.

MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
RIGHT-OF-WAY BUREAU

It is the policy of the Right of Way Bureau that no persons shall be discriminated against or denied the benefits of -- or participation in -- any of the activities of the Right-of-Way Bureau including, but not limited to appraisal, appraisal review, appraisal contracting, negotiations, administrative settlements, advance acquisition, relocation assistance payments and services, property management, and sale of excess lands. All Right-of-Way functions are covered by uniform, detailed operating procedures contained in the Right-of-Way Manual and are applicable to all acquisitions on all systems.

A. General

The Right-of-Way Bureau has greater contact with the public than any other Highway Bureau. The activities of the Bureau are guided by carefully developed procedures and documented through uniform reporting procedures. Adherence to established operating procedures generally assure no discriminatory practices will occur. It is only through a genuine sense of pride in job performance and empathy for the affected property owner that fair and equitable treatment can be achieved.

B. Preliminary Right-of-Way Studies

All preliminary studies are completed by Right-of-Way Bureau personnel. Studies include gathering information on ownerships, cost estimates, social and economic impacts, 4F involvement (public-owned lands used for public parks, recreation area, wildlife refuge, etc.) and relocation assistance.

All preliminary studies are reviewed by Helena Office Right-of-Way personnel for possible project impacts on minorities and non-minorities.

C. Appraisals

Appraisal assignments are made on the basis of need, qualifications, and demonstrated appraisal ability to both staff and fee appraisers. All appraisers must submit an appraisal history with each report. These indicate whether the parcel belongs to a minority or not and notes the observed income of the individual. This is the first information as to whether or not the property to be acquired belongs to a minority or non-minority.

Real estate value determinations are derived through generally accepted appraisal practices based on real estate transactions under the free market system. The completed appraisal is submitted to the field review appraiser for review, which includes viewing the property and talking to the property owner. When the field reviewer has completed reviewing the appraisal, it is forwarded to the Helena headquarters. It may again be reviewed by another individual who may also inspect the property.

1. Fee Appraisers

Fee appraisers, when needed, are employed without regard to race, color, sex, national origin or age. In Montana, there currently are no known minority fee appraisers, none have been pre-qualified, and on the Department's list of approved appraisers. Any contract with a fee appraiser states any member of a minority group must be given equal opportunity to perform the services needed to complete the appraisal. All contracts for fee appraisers and fee attorneys contain the clauses set forth in Appendix A of the Civil Rights Assurances.

D. Negotiations

Negotiations are handled exclusively by staff negotiators. Negotiators are under the constant supervision of the field supervisor as well as the supervisory personnel of the Helena headquarters. They are required to conduct the negotiations on the approved appraisal and have no authority to vary the offer. A negotiation history is submitted for every contact with the owner. This history identifies whether the parcel belongs to a minority or not, and the person's or family's observed income. The completed negotiation is reviewed in the field as well as the Helena headquarters. This assures everyone is treated equally and has received the amount of the approved appraisal for the property. Where conditions dictate, because of language barriers, age, or other factors, interpreters, relatives or friends are employed to aid the property owner in understanding the Department's proposed action.

1. Administrative Settlements
Administrative settlements are made only in unusual circumstances based on information from the field. Any settlement made on this basis is fully documented and approved by Helena headquarters before the offer is made. It is then submitted for final review as a regular negotiated parcel.

2. Advance Acquisition
The Department of Highways may, in certain situations, acquire rights of way on an advance acquisition for protective buying or hardship cases. Special and specific authorization is required from FHWA for all advance acquisitions. If information gathered indicates the parcel will be wholly or partially within the proposed right of way of the new project, and meets the required criteria, it is acquired by regular acquisition procedures. Circumstances surrounding the request determine the approval or rejection of the request and not who makes the request. The regular appraisal or negotiation histories indicate if the owner is a minority and his/her observed income.

E. Relocation Assistance Payments and Services

The benefits of the Relocation Assistance Program are fully explained and offered equally to all relocatees in a number of ways:

(1) public hearings, (2) relocation brochures, (3) individual mailings, (4) newspaper ads, and most important, (5) personal contact. Personal contact at the time a relocation plan is being prepared, during negotiations, and the actual displacement provides maximum opportunity for assistance based on the relocatee's particular needs. Histories are maintained of each contact and identifies whether the displacee is a minority or not and observed income of the individual or family.

Advisory assistance is provided to all displacees. This includes any and all help required to relocate the displacee into replacement housing, moving personal property, etc. This assures the displacee is relocated in a timely and humane manner.

The relocation program is often referred to as our "people program." All relocation agents are trained and versed in understanding the relocatee's needs and how to best meet those needs under the relocation regulations. Genuine rapport with, and affinity for, the relocatee is the trademark of the relocation agent. Relocation assistance is handled by staff relocation agents and no fee agents are hired.

F. Property Management

When excess lands (where Federal monies have been used in the original acquisition) are sold, the deed conveying the land contains a non-discriminating covenant running with the land. All lands are sold in a manner required by State statutes and are offered for sale to the general public through the bidding process.

MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PROGRAM
CONSTRUCTION BUREAU

PURPOSE:

This program is intended to ensure the Department's Compliance with Title VI provisions of the Civil Rights Act of 1964. The guidelines set forth in FHPM 6-4-1-6 are used to assure effectiveness.

Furthermore, this program prescribes procedures relating to Federal-aid highway projects, from the time the proceed to work order is issued, to the time of final acceptance by the Federal Highway Administration.

Through this Program, Disadvantaged Business Enterprises who are interested and qualified to become involved with this industry can do so if they desire, without discrimination.

APPLICABILITY:

The following policies, requirements and procedures apply to all Federal- aid highway projects administered by the State of Montana, Department of Highways, Construction Bureau:

A. Method of Construction:

1. The Department of Highways assures opportunity for free, open and competitive bidding by adequate advertisement in local newspapers, minority newspapers and those newspapers having major circulation throughout the State (see advertisement Section F).

2. Contracts are awarded to successful low bidders provided the successful bidder is staffed and equipped to perform the work satisfactorily.

B. Construction Bureau Supervision:

1. The Construction Bureau assures proper performance of the work in accordance with all contract provisions set forth by State and Federal requirements. All projects receive the prescribed amount of supervision and inspection to ensure conformity with approved plans and specifications.

C. Disadvantaged Business Enterprises:

1. Requirements are included in selected federally-aided contracts which stipulate prescribed DBE goals and are monitored for compliance through a cooperative effort between the Construction Bureau and the Department's Civil Rights Unit.

Included in those selected contracts is the DBE Certification Clause which the firm or individual must sign to become eligible for the award.

The Department of Highway's policy is to extend every effort to achieve the minimum DBE goals set by the Federal Highway Administration. (See Appendix B)

The successful bidder will be awarded the contract after the Contractor has shown the DBE goals have been met.

2. The Construction Bureau and the DBE Program Manager, who is with the Department's Civil Rights Unit, work together to assure minority participation.

   a. The Construction Bureau and five Districts throughout the State actively seek Disadvantaged Businesses on a continuing basis. Firms who are interested in becoming certified DBEs are referred to the DBE Program Manager.

   b. Upon request, the DBE Program Manager explains the procedures and requirements, as well as offering technical assistance in specific areas. These areas consist of: (1) certification requirements, (2) licensing, (3) bonding, (4) financing and accounting, and (5) assistance for bid preparation.

   c. Periodic orientation meetings are held as needed for DBEs. Arrangements are made with consultants by the Department for presentations within their areas of expertise.

   d. A Disadvantaged Business Directory is developed and maintained by the Department listing DBE firms and their particular type of business. The Directory is being updated on a continual basis and is distributed throughout the Department, heavy highway construction industry, City, County, State and Federal Agencies and private industry.

3. In accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 11625, the Department encourages DBE participation. Contract lettings provide various sizes of projects to assure opportunity for all sizes of contracting firms to compete.

4. The Department of Highways implements the provisions set forth in 49 CFR, Part 23, pertinent to DBE as written in the State of Montana, Department of Highways DBE Program.

D. Licensing:

A Montana contractor's license is not required to bid on a federally-funded project; however, a successful bidder must have a valid contractor's license before execution of the contract. The Department reserves the right to disqualify or refuse to issue a proposal, other than informational forms, if a bidder is in default for one or more of the following reasons:

1. Lack of competency, or adequate machinery and other equipment.

2. Uncompleted work that may hinder or prevent prompt completion of additional work.

3. Default under previous contracts.

E. Bonding:

No proposal will be considered unless accompanied by a proposal guaranty, in the amount of at least ten percent (10%) of the bid. The guaranty must be made unconditionally payable to the State of Montana, Department of Highways, which at the bidder's option may be cash, cashier's check, certified check, bank money order, or bank draft. In any case, to be drawn and issued by a National Banking Association located in the State of Montana, or a bid bond or bonds executed by a surety corporation authorized to do business in the State of Montana. All preceding requirements are without discrimination.

F. Advertising for Bids:

1. All Federal-aid projects, after receiving the required authorizations, are advertised for bids. Advertising is conducted in accordance with State and Federal laws, specifications, regulations and policies and those directives implementing Title VI of the Civil Rights Act of 1964. The preceding procedures assure free and adequate competition.

   All advertising for bids will include the following statement: "This contract is subject to all appropriate federal laws, including Title VI of Civil Rights Act of 1964".

   a. A four (4) week advertising period is provided for bidders.

   b. Advertising is conducted in two ways:

      (1) General Notice - this is a concise notice mailed to over 800 interested parties (for example, contractors, subcontractors, suppliers, etc.) free of charge. This notice provides sufficient information to prospective bidders enabling them to determine whether they are sufficiently interested to secure a set of bidding documents.
      (2) Legal advertisement - this is a brief notice placed in the legal advertising section of the local newspaper in the county where the work is performed. When a project is on

or near an Indian Reservation, advertisement is in the local tribal newspaper. In addition, legal advertising of ALL projects proposed for letting are placed in the Billings Gazette and Great Falls Tribune.

c. Addendums - Should questions or problems arise after contractors, subcontractors, manufacturers, suppliers, etc. receive the bidding documents, the Department will issue addendums no later than one (1) week, but preferably ten (10) days before bid opening.

G. Bid Letting:

1. Bidding procedures for federally assisted projects are conducted nondiscriminately. Recognition is given to all qualified bidders regardless of State boundaries and without regard to race, color, sex, national origin or age.

2. The contractor shall not assign more than 50% of his potential earnings, nor transfer, convey or otherwise dispose of his right, title or interest therein to any other person, firm or corporation without the written consent of his surety and of the Montana Highway Commission. The above provision with other rules and regulations governing the subletting of contracts are stipulated in Article 08.01 of the Montana State Highway Commission Standard Specifications for Road and Bridge Construction dated July 1, 1981.

3. Both contractor and subcontractor must be licensed to perform work on highway construction contracts for the Montana Department of Highways.

4. All requests for permission to sublet any portion of the work must be presented in writing from the prime contractor to the Construction Bureau. Although there is no state form, most subcontracts are received on a standard AGC Subcontract Agreement.

5. As indicated, the choice of subcontractors to be utilized on highway construction contracts is a prime contractor's decision that must be approved by the Department of Highway's Construction Bureau. The Department of Highway's Construction Bureau assures there will be no discrimination in the approval of subcontract requests. The Equal Employment Opportunity and Title VI responsibilities contained in the contract are also attached and made a part of all subcontracts. These attachments are designed to further the provision of equal employment opportunity and non- discrimination to all persons without regard to their race, color, religion, sex, national origin, handicap or age and to promote the full realization of equal opportunity through a positive, continuous program.

H. Utility and Force Account Agreements:

1. All utility agreements contain the following statement:

"The utility, for itself, its assignees and successors, hereby covenants and agrees it is fully aware and apprised of Title VI of the Civil Rights Act of 1964, 78 Sta. 252, 42 U.S.C. 2000d to 2000d-4 and Title 15, Code of Federal Regulations, Part 8, issued in implementation to said Act. The utility further covenants and agrees it will fully comply with said Act and the Regulations of the Department of Transportation issued thereunder, which Act and Regulations are herein incorporated by this reference and made a part hereof."

2. All Railroad Agreements contain the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21.

3. The Department of Highways Utility Section is responsible to assure Title VI Provisions are included in all agreements and contracts processed in their section.

4. All Force Account Contracts will contain the U.S. Department of Transportation regulations, Title 49, Code of Federal Regulations, Part 21.

5. All purchase orders for materials and supplies purchased by the Department of Highways or through contracting agencies performing work on Federal-Aid Projects are required to have the U.S. Department of Transportation Regulations attached. (Title 49, Code of Federal Regulations, Part 21).

I. Reports and Records:

1. The Civil Rights Unit requires reports annually from each of the five Districts indicating their efforts and results of efforts toward seeking and encouraging DBEs.

2. If problems are detected, they are addressed through the Civil Rights Unit to the Construction Bureau.

NOTE: Prequalification was abolished by MDOH in April, 1984.

MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
SAFETY & TRAINING BUREAU

Training & Education

The training for the Montana Department of Highways is supervised by the Training Section of the Safety & Training Bureau and governed by the MDOH Training Policy 3-0800, dated March 5, 1982.

It is the policy of the Department of Highways Training Section that no person shall be discriminated against, denied the benefits of, or participation in any activities offered as education and training.

A. NHI General

The Montana Department of Highways provides for equal opportunity participation of minorities and women in all educational and training programs including the National Highway Institute (NHI). The criteria for employee enrollment is based solely upon the content of the course being related to the employee's job. Available courses are posted on bulletin boards in both Headquarters and District offices. These bulletin boards are located in areas accessible to all employees.

B. NHI Course Selection

1. NHI Course announcements and catalogs shall be posted on training bulletin boards in the Headquarters and District offices.

2. Subjects may be selected by District Engineers, Division Administrators or by employee request.

3. Employee requests for NHI training will be approved by immediate supervisors.

C. NHI Sponsorship and Offering

1. The Supervisor who has selected the course has the following responsibilities:

   a. Assure attendance for desired number of participants.
   b. Act as liaison person with NHI.
   c. Assure training course and schedule is announced in location where course is to be offered.
   d. Assure that women and minorities in job related positions have been apprised of course.
   e. Invitations to outside agencies will state that all selections must be made on a nondiscriminatory basis.
   f. Perform minority/female attendance analysis from NHI course attendance records; provide copy of analysis and all attendance records to Training Section.
   g. Assure all rejected applications are submitted to Training Section along with the reason for rejection.

D. NHI Participant Information

1. The Training Section will compile all participant information into the training tracking program semi-annually. This information will show number and type of positions held by minorities and women who have been involved in NHI programs.

2. The training tracking report will compare attendance with availability.

3. Participation will be reviewed by the Supervisor requesting the course, Training Section staff and Civil Rights Unit staff. When participation by minority and female persons is determined to be unsatisfactory, a detailed written report will be submitted to the Director through the Administrator of the Personnel Division.

4. The current semi-annual report and the preceding report will be kept in the training section for review purposes.

E. NHI Contracting

At present MDOH does not contract with any person, firms or corporations for NHI training. However, we may contract for employee training and the FHWA may provide financial assistance for these programs. All MDOH rules regulating contracting will be observed and such contracts would provide for equal opportunity participation.

When contracts occur, a report on the selection system will be prepared by the Training Section and will remain on file for three years.

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MONTANA DEPARTMENT OF HIGHWAYS
TITLE VI PLAN
CENTRALIZED SERVICES DIVISION

A. Administration

Executive Order 11246 applies to Montana Department of Highway's employees. Title VI of the Civil Rights Act of 1964 only applies to Montana Department of Highways agency employment when discriminatory employment practices adversely affect the delivery of program services.

1. The Department has identified minority and women employees by race, color, sex, or national origin, inclusive of job title and classification, to the extent necessary to evaluate and/or ensure equality of opportunity for and nondiscriminatory treatment of beneficiaries. Reference: EEO Highway Employee List.

2. Existing procedures which provide for assurances of Title VI compliance with and by contractors, vendors, and suppliers, i.e., contracts and procurement, requisitions through state purchasing, MDOH purchasing, planning, and supportive services are referenced to Preconstruction, Construction, and Planning and Research portion of this Title VI Plan. Refer to Appendix C for MDOH Purchasing Policy.

3. Civil Rights requirements contained in contractual agreements are referenced to Consultant Selection and Negotiation Procedures.

4. Existing procedures are oriented to ensure minorities and women will receive equal considerations for participation in research contractual awards in accordance with Title 49 CFR, Contractual Awards: Consultants.

PROCEDURE

MATERIALS BUREAU, MONTANA DEPARTMENT OF HIGHWAYS

PROFESSIONAL FABRICATION TESTING, INSPECTION AND ENGINEERING SERVICES

AUTHORITY: This procedure has been prepared by the Supervisor, Quality Control Section-Materials Bureau; the Manager, Civil Rights Unit and the Compliance Specialist, Civil Rights Unit; the Supervisor, Physical Testing Section-Materials Bureau, and the Chief-Materials Bureau.

PURPOSE: To establish, as an equal opportunity employer, the procedure for selection of professional fabrication testing, inspection and engineer services; monitoring, review and acceptance of the services; and development and maintenance of a list of pre-qualified professional fabrication, testing, inspection and engineer agencies for conformance with the procedures established in FHPM 1-7-2.

PROCEDURE:

SELECTION OF PROFESSIONAL FABRICATION TESTING, INSPECTION AND ENGINEER AGENCIES

(PFTI&E)

FOR FABRICATION INSPECTION

Responsibility	Action
Chief-Materials Bureau	1. Determines a need for fabrication inspection services.
Supervisor, Physical Testing Section	2. Supervises selection and administration of inspection services.
Supervisor, Quality Control Section	3. Requests a source of materials supply list from contractors and subcontractors upon receipt of the project awards and concurrences, and subcontract approvals.
	4. Determines from the source of supply list the extent and place of fabrication of materials requiring fabrication inspection.
	5. Reviews, potential professional fabrication testing, inspection and engineer service agencies (PFTI & E) who are, or appear qualified to perform the services under consideration in accordance with

Responsibility	Action
	the best qualification information available. (Please refer to items 13-17)
Materials Supervisor, Structural Steel	6. Reviews structural steel plans and special provisions to determine and verify fabrication and inspection requirements.
Supervisor, Quality Control Section	7. Requests, on a project by project basis, fabrication inspection estimates from at least two qualified PFTI&E agencies based on: a. Project plans and proposals. b. Special provisions of the project contract. c. Fabrication and inspection d. Manufacturer's fabrication schedule. e. Fabrication plant location. f. Agencies' yearly schedule of testing and inspection charges if applicable. Exceptions to the minimum of two estimate requests may be justified based on: a. Urgency of installation. b. The service is only available from a single source. c. When an existing contract is in force at a fabrication plant and additional work is required due to another project, the existing contract may be re-negotiated to cover the additional work. d. Small quantity or minor cost items such as guard angles, ice plates, and pier nose angles, etc., not to exceed approximately $1,000.00.
	8. Reviews and approves all inspection estimates which are generally awarded to the lowest bidder. If the lowest bidder is not accepted, the reasons are documented.
	9. Notifies awardee of acceptance, and remaining agencies of rejection of estimate:

Responsibility	Action
	a. Assigns awardee an inspection authorization number for that particular arrangement. b. Advises awardee, in writing, of the Title VI obligations. (All private PFTI&E agencies sign a legal document stating their compliance with Title VI.) c. Notifies fabricator, contractor, and Department of Highways Construction Division of agency selection.
	10. Reviews all fabrication inspection reports, test reports, certifications and invoices for conformance to specifications and adherence to rates and fabrication schedules.
	11. Maintains progress reports, files, and ledgers on services and costs.

RECRUITMENT AND MAINTENANCE OF A LIST OF PREQUALIFIED PROFESSIONAL FABRICATION TESTING, INSPECTION, AND ENGINEERING SERVICES

Responsibility	Action
Supervisor, Quality Control Section	12. Advertises for fabrication inspection services in accordance with requirements contained in Attachment O of OMB Circular No. A-102. a. Places yearly invitations in the "Engineering News Record" to solicit PFTI&E agencies to bid on highway fabrication projects. b. Searches, by means of professional publications, for any out of state minority PFTI&E agencies in order that they may be eligible for review and consideration during the agency selection process.
	13. Reviews portfolios of interested PFTI&E agencies for qualifications and consideration during the agency

Responsibility	Action
	selection process with the Supervisor, Physical testing Section and the Materials Supervisor, Structural Steel.
	14. Obtains, on a yearly basis, a schedule of maximum inspection and testing charges from all qualified agencies for purposes of cost comparison, and to establish cost guidelines.
	15. Maintains a file on qualified PFTI&E agencies, with particular attention to minority firms, based on experience, past performance, portfolios, and listings in the American Council of Independent Laboratories.
	16. Requests a yearly certification of Title VI compliance from private PFTI&E agencies. A legal document is provided by the Materials Bureau for their signature for this purpose.
	17. Monitors Research Program for Title VI compliance.
	RESEARCH PROGRAM
Manager - Research Program	1. Project Selection - The Program Manager maintains a file of highway/transportation topics for which current knowledge is limited. These topics receive periodic consideration and ranking. Highly ranked topics are assigned priorities based on review of expected research costs and benefits. As funds become available under Part II of the Program Development Annual Work Programs, the research project of highest priority is added to the AWP.
	2. Selection of Principal Investigator - All provisions of the Consultant Selection Procedure, Section A, Paragraph 1, will be observed in a parallel fashion with respect to selection of research and research organization. Qualified researchers in specific fields are in state universities or other tax supported

Responsibility	Action
	agencies. Full compliance with the approved Affirmative Action Plans of those agencies will be required.
	3. Contract Development - All pre-award provisions of the Consultant Selection Procedure Section A, Paragraph 2, will be observed for research contracts.
	4. Contract Monitoring - Non-government organizations or private firms selected to conduct research projects will be reviewed for compliance at least once during the term of the contract or on an annual basis.
Manager - Research Program	Government organizations will be reviewed for compliance on an annual basis. Monitoring will be conducted by the Research Program Manager. The Compliance Specialist, Civil Rights Unit, will also monitor such activities in company with the Research Program Manager, on a select basis, depending on the type of project.

APPENDIX A

PROGRAM DEVELOPMENT DIVISION
TITLE VI REVIEW FORMAT

PURPOSE:

To provide a basic format to assist the Program Development Division personnel in conducting reviews of local planning organizations or local agencies responsible for determining the use of Federal-aid highway funds to be expended for various purposes in their area of jurisdiction. The review is not to be limited to the format described below. The wide diversity of local planning agencies requires a basic format that can be tailored to individual agency requirements.

The same format, where applicable, will be used for consultant firm reviews. In all probability, a separate format will be developed at a later date as experience is gained through the use of the format described herewith.

In those urbanized areas having a developed affirmative action plan, the review will be conducted on the basis of compliance to their own plan as well as to the procedures included in the Department of Highways compliance procedures.

A. Urban-Rural Transportation Planning

1. Determine the extent local planning or local elected officials have gone through to determine the following:
   a. What is the total minority, elderly and handicapped population in their area of jurisdiction?
   b. What is the type of minority, elderly and handicapped population (Indian, Hispanic, etc..)?
   c. Where are the locations and concentrations of minority, elderly and handicapped population within their areas of jurisdiction?
   d. What other statistics are available concerning income levels, travel habits, goals, objectives and desires of minorities?
   e. To what extent is the data discussed above used to determine the system and priority of projects in the area?

2. Determine the efforts to involve minorities, handicapped and the elderly in the planning process as follows:
   a. What means are used to communicate with minorities, handicapped and the elderly?
   b. Are public notices or information disseminated that would be of interest to these groups?
   c. Are there any special emphasis programs in effect?
   d. Have any other attempts been made to elicit citizen involvement in the transportation planning process?

e. Have any meetings or communications been made concerning the impact of planned systems and routes upon both minority and nonminority areas?
f. Have any minorities, handicapped and the elderly expressed a need for transportation improvements either short range or long range?

B. Consultant Services - (local awards)

1. Determine the extent of solicitations of minority and female contractors for planning and design projects as follows:

   a. Is a list of qualified consultants maintained?
   b. Are Requests For Proposals (RFP) publicized and are proposals solicited from qualified minority and female sources?
   c. Is the work to be performed separated into smaller tasks to permit qualified minority or female firm participation?
   d. Are the prime contractors encouraged to subcontract with minority and/or female contractors when a subcontract is desirable?

2. Identify the number of projects held by minority and/or female firms and the dollar amounts involved in the contracts.

3. Do contracted firms have affirmative action plans, and detailed procedures for procurement and contracted services?

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Appendix B

- DBE POLICY -

The Montana Highway Commission adopts the following amended policy with respect to the Disadvantaged Business Enterprise (DBE) Program. The Federal Fiscal Year 1984 goal for all Federal-aid construction contracts in Montana is 6 percent participation by certified Disadvantaged Business Enterrprises. Depending upon the circumstances of the project, the goal may be decreased to as little as 4 percent.

The Montana Highway Commission adopts the following terms and conditions for the award of contracts which contain Disadvantaged Business Enterprise goals. The following specifications shall be inserted in such contracts and the award will be made pursuant to its terms.

(a) The DBE contract goals for this contract are _____percent. The bidder shall complete and submit with his bid a schedule of intended participation by certified Disadvantaged Business Enterprises. This schedule shall be used to determine whether the bidder has complied with the DBE goal. Bids that do not contain a schedule or bids containing a schedule that is incomplete shall be considered as nonresponsive and shall be rejected pursuant to Specification 03.01. Bids submitted by certified Disadvantaged Business Enterprises will be considered to have met the DBE contract goals.

(b) The successful bidder shall be selected on the basis of having submitted the lowest bid which has met the DBE goals. Should the low and otherwise responsive bidder fail to meet the contract goal, responsiveness shall be determined on the basis of good faith efforts taken to attain the contract goal. Good faith efforts shall be determined by comparing the percentage of DBE participation of the low bidder with the average of the percentage of DBE participation submitted by all bidders on this project. Bids containing a percentage of DBE participation which is less than the average percentage, shall be considered nonresponsive and shall be rejected.

(c) Bids submitted by certified Disadvantaged Business Enterprises will not be used in determining the average percentage of DBE participation.

(d) Disadvantaged Business Enterprises that have not been certified by the Montana Department of Highways at least 10 working days prior to the date the bids are opened shall not be considered in determining whether the bidder has complied with the DBE goal.

The policy on federal-aid construction contracts having an engineer's estimate of less than $50,000 will be to allow the Department to evaluate the contract's potential for subcontracting and then set a goal. The award procedures will then be the same as governs those contracts having an engineer's estimate of $50,000 or greater.

- WBE POLICY -

The Montana Highway Commission establishes an annual goal of 1.5 percent for Women's Business Enterprises (WBE) participation in federal aid construction contracts. The Department of Highways shall set goals on individual contracts that have a potential for subcontracting by certified Women's Business Enterprises. The contract goal set by the Department shall not exceed 6 percent on any contract.

The award procedures for a contract that contains a WBE goal will be the same as the procedures for the award of a contract with a DBE goal.

Adopted by the Montana Highway Commission

Ilert Hellebust, Chairman

Date May 1, 1984

MDOH PURCHASING PROCEDURE

EACH PURCHASE FILE SHALL CONTAIN: Appendix C

(a) Purchases up to $200
(1) Copy of a properly executed transfer warrant claim document.
(2) Copy of vendor's invoice.

(b) Purchases from $201 to $500
(1) Copy of properly executed transfer warrant claim document.
(2) White copy of field purchase order document, dated, including signature of buyer.
(3) Copy of successful vendor's invoice.
(4) Written record of telephone bids obtained (a minimum of three) to include per bid:
(a) Name of vendor.
(b) Name of vendor contact person.
(c) Manufacturer, model, dimensions, quantity and other pertinent specifications per item category.
(d) Price quoted.
(e) Terms.
(f) F.O.B. point.
(g) Delivery date.

(c) Purchases from $501 to $1999
(1) Copy of properly executed transfer warrant claim document.
(2) White copy of field purchase order document, dated, including buyer's signature.
(3) Copy of successful vendor's invoice.
(4) List of vendors (a minimum of three) to whom Request for Quotation was sent.
(5) Copy of the informal written request for quotation form and copies of all bids received, to include per bid:
(a) Name of vendor.
(b) Authorized signature.
(c) Manufacturer, model, dimensions, quantity and other pertinent information/specifications per item category.
(d) Price quoted and extension.
(e) Terms.
(f) F.O.B. point.
(g) Delivery date.

(6) Bid tabulation sheet.
(7) Written explanation by the buyer if the purchase is awarded to other than the low bidder.
(8) Written records of correspondence, if any, concerning the purchase and a brief written record of any pertinent phone conversations, if any, concerning the item or bid.

(d) Purchases $2000 to $10,000
(1) Copy of signed purchase requisitions.
(2) Copy of signed purchase order.
(3) Vendor's list used.

(4) Copy of Request for Quotation Document complete with specifications, including any addenda.
(5) Copies of all bids submitted.
(6) Bid tabulation sheet.
(7) Copies of any correspondence concerning the purchase including recommendations for award from the using agency area.
(8) Copies of certified mail receipts, if required.
(9) A written record of any phone conversations concerning the purchase.
(10) A written explanation by the Purchasing Agent if the contract is awarded to anyone other than the low bidder.
(11) Copy of securities, if required.
(12) Copy of advertisement notice, if required.

Reports

The Agency agrees to submit the following reports on a quarterly basis (March 31, 1984 and June 30, 1984) to Purchasing.

a. Complaints against vendors and the resolution, if resolved.

b. Summary of purchase over $2,000.00 by commodity class and item code complete with amount of contract, name of successful vendor and the names of vendors who failed to respond.

c. List of out-of-state contracts and amount of contract.

SUBPART A

BULK FUEL PURCHASES

The Department of Highways is mandated by law to build and maintain Montana's Highway System. This mandate requires numerous, unpredictable and short notice purchases of fuel in bulk quantities, normally 8,000 gallons or more. For this reason the Agency is authorized to purchase all gasoline and diesel fuel requisitioned in combined quantities totaling over 2,000 gallons as outlined under Section X, b. 4. (d) regardless of estimated dollar amount. Purchasing's most current fuel term contract will be utilized on all individual fuel purchases of 2,000 gallons or less.

SUBPART B

HIGHWAY TERM CONTRACTS

The Department of Highways purchases a large number of low dollar amount repeat usage items during the course of a given fiscal year. Currently, the vast majority of these items are purchased by the field under the $200 limit. The Agency is currently reviewing the feasibility of implementing several term contract type purchasing agreements to cover these kinds of repeat purchases, which will hereafter be referred to as service contracts.

The service contract approach will allow the Agency to establish competitively bid programs with vendors throughout the state who have the capabilities of

supplying the commodity/service package needed by Agency's Helena Headquarters and its five District areas.

The Agency agrees to request and obtain written approval from Purchasing before any service contract is put out to bid, and further agrees that service contracts will not involve requisition time schedule items, Central Stores items or existing term contract items.

The Agency is, therefore, authorized to write, implement and administer Purchasing approved term contracts, as described herein, for maximum one (1) year periods of time.